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Nos. 04-1528 and 04-1530

IN THE

Supreme Court of the United States

NEIL RANDALL, *et al.*,
Petitioners,

v.

WILLIAM H. SORRELL, *et al.*,
Respondents.

VERMONT REPUBLICAN STATE COMMITTEE, *et al.*,
Petitioners,

v.

WILLIAM H. SORRELL, *et al.*,
Respondents.

On Writ of Certiorari to the United States Court of Appeals for the Second Circuit

BRIEF *AMICI CURIAE* OF SENATOR JOHN F. REED, SENATOR THOMAS R. CARPER, SENATOR MARK DAYTON, SENATOR RICHARD J. DURBIN, SENATOR DIANNE FEINSTEIN, SENATOR TOM HARKIN, SENATOR EDWARD M. KENNEDY, SENATOR CARL LEVIN, REPRESENTATIVE CHARLES F. BASS, REPRESENTATIVE MICHAEL N. CASTLE, REPRESENTATIVE JAMES A. LEACH, REPRESENTATIVE TOM OSBORNE, REPRESENTATIVE TODD RUSSELL PLATTS IN SUPPORT OF THE RESPONDENTS

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INTEREST OF AMICI

Amici, Senator John F. Reed, Senator Thomas R. Carper, Senator Mark Dayton, Senator Richard J. Durbin, Senator Dianne Feinstein, Senator Tom Harkin, Senator Edward M. Kennedy, Senator Carl Levin, Representative Charles F. Bass, Representative Michael N. Castle, Representative James A. Leach, Representative Tom Osborne, and Representative Todd Russell Platts are a bipartisan group of Members of Congress.[1] The personal experiences of *amici*, as candidates and members of Congress, since this Court's decision in *Buckley* demonstrate the need for clearer and more comprehensive authority to vindicate the central premise in *Buckley*—that the government has a compelling interest in ensuring faith in the integrity of the political process. *Amici* advocate, and seek to enact, reforms to vindicate that compelling interest. As both elected representatives and seasoned participants in the electoral process, *amici* believe they are entitled to broad deference in the regulation of federal elections. The Court in *Buckley v. Valeo*, 424 U.S. 1 (1976), properly accorded legislatures such deference with regard to contribution limits. The Court should clarify that equivalent deference is warranted with respect to the expenditure limits at issue here and extend it to campaign finance reforms in general. Without additional reforms, the public's faith and participation in the political process will continue to decline. Such reforms can be enacted without infringing upon First Amendment rights and without stifling the public debate essential to the functioning of our democracy. Indeed, such reforms will enhance the

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[1] No person or entity other than *amici* and their counsel made a monetary contribution to the preparation or submission of this brief. Counsel of record for the parties have consented to the filing of this brief, and letters of consent have been filed with the clerk.

public debate that is the foundation of our democratic process.

INTRODUCTION AND SUMMARY OF ARGUMENT

This case raises issues of great significance. In the judgment of *amici*, the Second Circuit's decision upholding the State of Vermont's campaign contribution limits, and, in particular, its holding that the State had identified compelling interests sufficient to support its campaign expenditure limitation, were exactly right. In both of these critical respects, the Second Circuit correctly held that Vermont's campaign finance law is consistent with the Court's decision in *Buckley v. Valeo*, 424 U.S. 1 (1976).

As the Court recognized in *McConnell v. FEC*, 540 U.S. 93 (2003), nothing in the three decades of experience since *Buckley* calls into question the Court's decision to uphold the legislative judgment that campaign contribution limits are essential to preserving the public's faith in the electoral process and our representative institutions. Rather, the accumulated experience of Members of Congress, reinforced by empirical evidence, is that the dominance of money in politics continues to threaten the public's faith in the legitimacy of government and in the elections that choose whom shall govern—notwithstanding the existence of contribution limits of the kind upheld in *Buckley*. *See McConnell*, 540 U.S. at 143-65 (relying on empirical evidence and experience of Members of Congress). Indeed, in *McConnell* the Court stressed the "importance of the interests that underlie contribution limits—interests in preventing both the actual corruption threatened by large financial contributions and the eroding of public confidence in the electoral process through the appearance of corruption." 540 U.S. at 136 (quotation marks omitted).

As the Court explained in *McConnell*, "these interests directly implicate the integrity of our electoral process, and, not less, the responsibility of the individual citizen for the successful functioning of that process." 540 U.S. at 136-37 (quotation marks omitted). "Contribution limits, like other measures aimed at protecting the integrity of the process, tangibly benefit public participation in political debate." *Id.* at 137. The issues presented in this case are thus simply not about censorship. To the contrary, "constitutionally protected interests lie on both sides of the legal equation." *Nixon v. Shrink Missouri Government PAC*, 528 U.S. 377, 400 (2000) (Breyer, J., concurring). For this reason, "there is no place for a strong presumption against constitutionality, of the sort often thought to accompany the words 'strict scrutiny.'" *McConnell*, 540 U.S. at 137 (quotation marks omitted).

The Court in *McConnell* made those statements in the course of upholding contribution limitations, and the analysis set forth in that case compels the conclusion that Vermont's campaign contribution limitations should be upheld in this case. Even more importantly from the perspective of *amici*, these core teachings of *McConnell* and *Shrink Missouri* should also apply to the question of whether Vermont's campaign expenditure limitations are constitutional—notwithstanding *Buckley*'s different treatment of contribution and expenditure limitations. Specifically, *amici* believe *Buckley* can and should be read to provide government with the leeway to impose expenditure limitations if supported by a record of compelling state interests sufficient to support the limitations. As the Second Circuit recognized, there is no rule of *per se* First Amendment invalidity. Even if expenditure limitations are subject to strict First Amendment scrutiny, the interests Vermont advances in support of its

limitations—controlling the corrosive effects of around-the-clock fund-raising, both on the public's faith in the institutions of government and on the ability of officeholders to do the people's business effectively—are interests that must be recognized as compelling after *McConnell*. At the very minimum, therefore, the State should be afforded the opportunity to demonstrate that its expenditure limitations are a narrowly tailored means of achieving these goals.

Even more to the point, *amici* believe *Buckley*'s approach to expenditure limitations is ripe for re-examination in light of the three decades of experience under the regime of campaign finance regulation that *Buckley* dictated. Applying the equivalent of strict judicial scrutiny to expenditure limitations is inappropriate, and leaves government with insufficient leeway to protect the integrity of the political process.

The needed leeway can be provided, consistent with the First Amendment, in two ways. First, intermediate scrutiny should apply to any campaign finance reform—including expenditure limitations—that is justified by reference to something other than the communicative impact of speech. That is the clear thrust of this Court's First Amendment jurisprudence since *Buckley*. *See Turner Broad. Sys., Inc. v. FCC*, 512 U.S. 622, 641-43 (1994) ("*Turner I*"); *Ward v. Rock Against Racism*, 491 U.S. 781, 791-92 (1989). Unlike the expenditure limitations at issue in *Buckley*—the principal justification for which was a desire on the part of the government to limit the speech of some to amplify the relative voice of others—Vermont enacted its expenditure limits to advance interests properly understood as content-neutral. Vermont's goals of ensuring the public's faith in the integrity of the political process and ensuring the effectiveness of that process are completely unrelated to the

communicative impact of campaign speech. The State's goal is not to suppress any speech or to reduce the quantity of political speech. Rather, the State seeks to change the current reality in which fund raising is the predominant activity of politics.

Second, and more generally, *amici* believe that legislatures should be given substantial deference in the design and enactment of campaign finance laws—including expenditure limitations. *Buckley* provided such deference with regard to contribution limits, and the practical experience of *amici* since *Buckley* with respect to the financing of campaigns has demonstrated that deference is warranted for all such laws. Justice White was correct: the Court should defer to the "many seasoned professionals who have been deeply involved in elective processes and who have viewed them at close range over many years." *Buckley*, 424 U.S. at 261 (White, J., concurring in part and dissenting in part). The Court should allow vindication of the predictive judgments of legislatures as to what campaign finance laws are needed to sustain faith in the electoral process and enhance the process of governance. As this Court has recognized, legislatures should not be held to a standard of proof that "'would necessitate that a State's political system sustain some level of damage before the legislature could take corrective action.'" *Burson v. Freeman*, 504 U.S. 191, 209 (1992) (*quoting Munro v. Socialist Workers Party*, 479 U.S. 189, 195 (1986)). Appropriate deference is not inconsistent with meaningful scrutiny to ensure that campaign finance laws are not incumbency protection devices in disguise.

In sum, *amici* believe that this Court's interpretation of the First Amendment should not hamstring legislators' good faith attempts to protect the viability of our very structure of

government. "[F]or while the Constitution protects against invasions of individual rights, it is not a suicide pact" requiring Congress and state legislatures to stand helplessly by as the public's faith in democracy withers away. *See generally Kennedy v. Mendoza-Martinez*, 372 U.S. 144, 160 (1963).

ARGUMENT

I. The Second Circuit's Disposition of Petitioners' Challenge to Vermont's Campaign Spending Limitations Was Correct.

As the Second Circuit recognized in this case, *Buckley* should not be read as imposing an inflexible bar on campaign spending limitations. Reading *Buckley* that way would be anomalous in First Amendment jurisprudence. Even direct content-based restrictions of speech may be sustained if they are a narrowly tailored means of achieving a compelling governmental interest—a point the Court has vindicated directly in the context of the electoral process in *Burson v. Freeman*, 504 U.S. 191 (1992). Thus, where—as here—government can demonstrate the existence of compelling interests in support of campaign expenditure limitations, those limitations should be sustained if they are an appropriately narrowly tailored response to the problem that motivated their enactment.

With respect to Vermont's expenditure limitations, therefore, the Second Circuit's disposition was correct under existing law. The court below correctly held that the interests the State has advanced in support of the expenditure limitations are compelling, and remanded for a determination whether the law was sufficiently tailored to survive review. Petitioners are incorrect in their contention that *Buckley* foreclosed that result. *Buckley* invalidated the federal

campaign expenditure limitation at issue in that case because that limitation was principally justified on the basis of a perceived need to reduce the speech of the wealthy in order to equalize the relative voice of the less affluent—*i.e.* by an express desire to restrict the speech of some in order to provide a comparative advantage to others. 424 U.S. at 48 & n.54. Thus, even if the parties debated the sufficiency of other justifications for expenditure limitations (including those advanced by Vermont here), *Buckley* cannot reasonably be read as rejecting those alternative justifications as inadequate. This is a fundamentally different case than *Buckley* because the justifications Vermont advances here have nothing to do with a desire to equalize the relative voices of speakers. Vermont simply wants to ensure that fund-raising is no longer the predominant activity of politics. As the Second Circuit correctly held, Vermont's justifications should be evaluated on their own terms, and qualify as compelling.

II. Vermont's Campaign Expenditure Limitation Is Properly Subject to Intermediate First Amendment Scrutiny.

Although Vermont's expenditure limitation should be upheld under *Buckley*'s articulation of the appropriate standard of review, *amici* submit that a more searching re-examination of *Buckley*'s analytical framework is needed to bring the Court's approach to campaign finance cases into line with its overall First Amendment jurisprudence. This Court's jurisprudence since *Buckley* has made clear that "[t]he government's *purpose* is the *controlling* consideration" in determining the standard of reviews for laws challenged on First Amendment grounds. *Ward*, 491 U.S. at 791 (emphasis added). Strict scrutiny applies only to "regulations enacted for the purpose of restraining speech on

the basis of its content." *City of Renton v. Playtime Theatres, Inc.*, 475 U.S. 41, 46-47 (1986). The more lenient—but still searching—requirements of intermediate scrutiny apply "to those cases in which the governmental interest is unrelated to the suppression of free expression," *Texas v. Johnson*, 491 U.S. 397, 407 (1989) (internal quotation marks omitted), or where the legislation is "justified without reference to the content of the regulated speech." *Renton*, 475 U.S. at 48 (quotation marks omitted); *see also Ward*, 491 U.S. at 791. This is true even if the regulation has "an incidental effect on some speakers or messages but not [on] others." *Ward*, 491 U.S. at 791. Indeed, intermediate scrutiny is appropriate for laws that may directly regulate speech activity, as long as the government's justification for regulating is unrelated to the content of the expression, limited by the regulation. *Turner Broad. Sys., Inc. v. FCC*, 520 U.S. 180, 213-14 (1997) ("*Turner II*").[2]

Because the appropriate standard of review depends on the government's "overriding objective" in passing the challenged regulation, *see Turner I*, 512 U.S. at 646, campaign finance laws should be subjected to intermediate scrutiny if they are justified on grounds unrelated to the communicative impact of speech. This conclusion is consistent with *Buckley*. That case applied strict scrutiny to

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[2] The mere fact that campaign finance laws only address laws related to campaign financing does not mean such laws are aimed at the communicative impact of speech. In *Renton*, for example, this Court declined to apply strict scrutiny to a zoning restriction that directly burdened expression of a particular content—"adult" films—because the government's "predominate concerns" in preventing "secondary effects" were unrelated to suppression of the regulated speech. *Renton*, 475 U.S. at 47 (quotation marks omitted).

the independent expenditure limits at issue because those limits were justified on the basis of the communicative value of the speech. As this Court explained in *Turner I*, "[t]he Government [in *Buckley*] justified the law as a means of 'equalizing the relative ability of individuals and groups to influence the outcome of elections.' . . . Because the [independent] expenditure limit in *Buckley* was designed to ensure that the political speech of the wealthy not drown out the speech of others, we found that it was concerned with the communicative impact of the regulated speech." *Turner I*, 512 U.S. at 657-58 (quoting *Buckley*, 424 U.S. at 48).[3] Accordingly, to determine the appropriate standard of review, a court must consider whether the justification offered by the government for the campaign finance law aims at the communicative impact of the speech affected.

A number of purposes that are unrelated to the communicative impact of speech motivate campaign finance laws—including expenditure limitations of the kind at issue here. First and foremost, regulating campaign finance increases citizens' faith and confidence in the political system. Efforts to restore faith in our representative government are unrelated to "the ideas or views expressed" by campaign contributions. *Turner I*, 512 U.S. at 643. As recognized in *Buckley*, avoiding corruption or the appearance of corruption is necessary to serve this broader purpose; indeed, it is "'critical . . . if confidence in the system of

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[3] The *Buckley* Court did reject an argument, premised on *United States v. O'Brien*, 391 U.S. 367 (1968), that regulation of contributions and expenditures was regulation of conduct, not speech. *See Shrink Missouri*, 528 U.S. at 386 (citing *Buckley*, 424 U.S. at 16). But that is hardly dispositive of *amici*'s argument in favor of intermediate scrutiny. It has been clear at least since *Ward* that it is the government's justification that is controlling. *Ward*, 491 U.S. at 791.

representative Government is not to be eroded to a disastrous extent.'" *Buckley*, 424 U.S. at 27 (quoting *United States Civil Serv. Comm'n v. National Ass'n of Letter Carriers*, 413 U.S. 548, 565 (1973); alteration in original); *see also McConnell*, 540 U.S. at 203-04 (reaffirming compelling interest in preserving citizenry's faith in the electoral process).

Reforms also can be justified by the related need to address voter apathy. Studies have shown a correlation between the decrease in voter turnout and the increase in campaign spending. E. Joshua Rosenkranz, Buckley *Stops Here: Loosening the Judicial Stranglehold on Campaign Finance Reform* 17 (1998). Voter apathy, and alienation from the government in general, is exacerbated by a public perception of the pervasive influence of money in politics. One study in Minnesota revealed that "almost one-third of those surveyed were less likely to vote or participate in politics because they believed that givers have more influence over elected officials than [non-givers] do." David Schultz, *Proving Political Corruption: Documenting the Evidence Required to Sustain Campaign Finance Reform Laws*, 18 Rev. Litig. 85, 122 (Winter 1999). This Court has recognized that the government has a compelling interest in addressing this public disdain for the electoral process, in order "to sustain the active, alert responsibility of the individual citizen in a democracy for the wise conduct of government." *United States v. International Union United Automobile Workers of Am.*, 352 U.S. 567, 575 (1957).

Additionally, reforms—and expenditure limits in particular—can be justified by a compelling content-neutral interest in preserving the quality of representation by eliminating the burden of raising enormous campaign "war chests." That this burden exists, and has come to dominate

the professional lives of officeholders and candidates is not open to serious question. *See generally* Vincent A. Blasi, *Free Speech and the Widening Gyre of Fund-Raising: Why Campaign Spending Limits May Not Violate The First Amendment After All*, 94 Colum. L. Rev. 1281 (1994).

As *amici* can attest, the incessant demands of fund-raising create significant problems for elected representatives seeking to fulfill their professional duties. Elected officials spend so much time raising campaign funds that there is little time left to master issues, communicate with constituents and perform other essential parts of their jobs. In the words of former Representative Vin Weber, "the amount of time people have to put into raising money is a serious problem in the country. . . . There's no way you can prove its impact on the quality of Congress's work . . . . But when the members making decisions can't devote serious quality time to serious decisions, it has to [result in] a lower quality of work."[4] This interest is not merely important: it is of a constitutional dimension in its own right. In addition, the necessity of amassing a huge campaign "war chest" creates a strong disincentive to run for office, for both incumbents and challengers.

This problem is the direct result of the absence of limits on campaign spending—and not the result of campaign contribution limitations, as petitioners and their supporting *amici* contend. Candidates simply will not voluntarily put themselves at risk of being outspent by an aggressive opponent. Thus, in a world without contribution limits, the pressure to engage in constant fundraising would remain

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[4]Center for Responsive Politics, *Speaking Freely*, at http://www.crp.org/pubs/speaking/speaking03.html (visited Feb. 7, 2006) (alterations in original).

intense. In any event, petitioners and their supporting *amici* are plainly wrong in their contention that the only constitutionally acceptable way to advance the compelling interest in reducing the time spent fund raising is to eliminate contribution limits. That choice would force legislatures to endure the risk of actual and perceived corruption of the electoral process in order to reduce the incessant demands of fundraising. The First Amendment cannot be read to require such a perverse result.

These justifications for reform address public concerns wholly unrelated to the communicative impact of campaign speech. As to preserving public confidence in the system and combating voter apathy, the problem is not the political message funded by a large contribution or expenditure but rather the perceived significance of the very fact that a large amount of money is donated or spent. *Cf. United States Civil Serv. Comm'n v. National Ass'n of Letter Carriers*, 413 U.S. 548, 565 (1973) (upholding restrictions on federal employees' political activities justified in part on ensuring that "[public] confidence in the system of representative Government is not . . . eroded to a disastrous extent"). As to limiting the time candidates spend raising money, the problem is not the message any candidate seeks to fund, but rather the extent to which the fundraising process itself hampers the job performance of public servants. *Cf. Renton*, 475 U.S. at 47 (reviewing zoning restriction on "adult" theatres under intermediate scrutiny because the restriction was meant to control "the secondary effects of such theatres on the surrounding community").

III. The Court Should Afford Appropriate Deference To Legislative Judgments That Campaign Finance Laws—Including Expenditure Limitations—Are Necessary.

More generally, the Court also should apply a deferential standard of proof that will allow vindication of legislative judgments of the necessity of campaign finance laws. In First Amendment cases, this Court has carefully avoided "imposing judicial formulas so rigid that they become a straitjacket that disables government from responding to serious problems." *Denver Area Educ. Telecomms. Consortium, Inc. v. FCC*, 518 U.S. 727, 741 (1996). That wisdom applies with particular force in the present context. The "choice of means" to protect the integrity of elections "presents a question primarily addressed to the judgment of Congress." *Burroughs v. United States*, 290 U.S. 534, 547 (1934) (upholding the Federal Corrupt Practices Act of 1925); *see also Letter Carriers*, 413 U.S. at 566. Therefore, if "the means adopted are really calculated to attain the end, the degree of their necessity, the extent to which they conduce to the end, the closeness of the relationship between the means adopted, and the end to be attained, are matters for congressional determination alone." *Burroughs*, 290 U.S. at 548.

This deference has been applied to laws regulating the electoral process even in the face of First Amendment challenges when, as here, significant competing government interests are at stake. For example, in *Burson*, the Court did not require stringent proof from the legislature to uphold a 100-foot boundary around polling places. *Burson*, 504 U.S. at 209. As *Burson* noted, "this Court never has held a State 'to the burden of demonstrating empirically the objective effects on political stability that [are] produced' by the

voting regulation in question." *Id.* at 208-09 (quoting *Munro v. Socialist Workers Party*, 479 U.S. 189, 195 (1986); alteration in original). There, the Court affirmed a campaign reform, even in the face of strict scrutiny, on the basis of "[a] long history, a substantial consensus, and simple common sense." 504 U.S. at 211.

This deference is warranted in part because "it is difficult to isolate the exact effect" of campaign finance laws on the harms they are designed to address. *Id.* at 208. Deference is especially important where, as with many campaign finance laws, the justification for regulation is declining public faith in the electoral system—a problem that is inherently difficult to prove by direct evidence and that legislators are distinctly well-positioned to access. Moreover, the Court has recognized that it should not require that "a State's political system sustain some level of damage before the legislature could take corrective action." *Munro v. Socialist Workers Party*, 479 U.S. 189, 195 (1986). The Court therefore has provided deference to permit legislatures "to respond to potential deficiencies in the electoral process with foresight rather than reactively, provided that the response is reasonable and does not significantly impinge on constitutionally protected rights." *Id.* at 195-96.

Accordingly, the *Buckley* Court went out of its way to defer broadly to legislative judgments about the need for contribution limits. The Court upheld the FECA contribution limits based not on anything Congress actually proved but merely because "Congress could legitimately conclude that the avoidance of the appearance of improper influence" justified restrictions on contributions. *Buckley*, 424 U.S. at 27. As to the threat of actual corruption, the *Buckley* Court relied on common sense in acknowledging the importance of fundraising to elections and the danger that

donors might exchange campaign funds for political favors. *Id.* at 26-27. The Court did not demand actual evidence of corruption, noting only that examples cited by the Court of Appeals showed that "the problem [was] not an illusory one." *Id.* at 27. Indeed, the Court declared that "the scope of such pernicious practices *can never be reliably ascertained.*" *Id.* (emphasis added). Finally, *Buckley* admonished courts to avoid "fine tuning" of legislative limits on contributions. *Id.* at 30.

The Court has reiterated this deferential portion of *Buckley* in subsequent cases. *See FEC v. National Right To Work Comm.*, 459 U.S. 197, 209-10 (1982) (finding that congressional judgment about electoral laws "warrants considerable deference"); *id.* (Court will not "second guess a legislative determination as to the need for prophylactic measures where corruption is the evil feared"); *California Med. Ass'n v. FEC*, 453 U.S. 182, 199 (1981) (holding that contribution limit was "an appropriate means by which Congress could seek" to advance governmental interest). The Court made the same point in *Shrink Missouri.* Noting that "[t]he quantum of empirical evidence needed to satisfy heightened judicial scrutiny of legislative judgments will vary up and down with the novelty and plausibility of the justification raised," the Court held it was "neither novel nor implausible" that large contributions present dangers of corruption and arouse voters' suspicions in the integrity of the system. *Shrink Missouri*, 528 U.S. at 391. The Court therefore sustained the contribution limits without demanding much evidentiary proof, concluding "there is little reason to doubt that sometimes large contributions will work actual corruption of our political system, and no reason

to question the existence of a corresponding suspicion among voters." *Id.* at 395.[5]

This deference is appropriate, and should be afforded here. Legislatures, not courts, are institutionally better suited to assess the need for campaign finance laws and what types of laws will best address the declining faith of their constituents in the political process. And, as seasoned participants in that process, legislators have practical experience as to the potentially negative aspects of the campaign financing system and the best way to ameliorate them. As Justices Stevens and Ginsburg recognized in *Colorado Republican I*, "Congress surely has both wisdom and experience in these matters that is far superior to ours." *Colorado Republican Fed. Campaign Comm. v. FEC*, 518 U.S. 604, 650 (1996) (Stevens, J., dissenting). "Where a legislature has significantly greater institutional expertise, as for example, in the field of election regulation, the Court in practice defers to empirical legislative judgments." *Shrink Missouri*, 528 U.S. at 402 (Breyer, J., concurring). The Court must allow vindication of the predictive judgments of legislatures that reforms are needed to address compelling government interests, interests that are themselves of constitutional magnitude.

The first-hand experience of *amici* indicates that the campaign laws upheld in *Buckley* are insufficient, by themselves, to stop the decline of voter confidence in the integrity of the electoral process. And the regime *Buckley*

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[5] The Court in *Shrink Missouri* relied upon an affidavit from a State Senator to the effect that large contributions have "the real potential to buy votes," newspaper accounts of potential improprieties related to large campaign contributions, several campaign financing scandals cited by the Court of Appeals in another case, and a voter referendum reflecting support for contribution limits. *Id.* at 393-95.

put in place has had the perverse consequence of burdening officeholders and candidates with the ceaseless task of fund-raising to ensure adequate war chests—a burden that is eroding the quality of representative government in this country even as it erodes the public's faith in their elected officials. At the same time, the Court should not overestimate the impact that campaign finance laws have on First Amendment interests on the other side of the balance. Even though the purpose of a reform is unrelated to the communicative impact of speech, the effect can be to enhance, rather than to restrict, the interests protected by the First Amendment. "It is quite wrong to assume that the net effect of limits on contributions and expenditures—which tend to protect equal access to the political arena, to free candidates and their staffs from the interminable burden of fund-raising, and to diminish the importance of repetitive 30-second commercials—will be adverse to the interest in informed debate protected by the First Amendment." *Colorado Republican I*, 518 U.S. at 649-50 (Stevens, J., dissenting).

CONCLUSION

The decision of the Second Circuit should be affirmed.

Respectfully submitted,

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